

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 363

S.P. 103

In Senate, January 24, 2019

An Act To Protect Residents of Assisted Living Facilities

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative ALLEY of Beals and
Senators: BREEN of Cumberland, GRATWICK of Penobscot, Representatives: DOORE of
Augusta, DOUDERA of Camden.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1833** is enacted to read:

3 **§1833. Orders not to resuscitate**

4 A nursing facility shall establish a process for quickly determining in the event of a
5 medical emergency whether an individual residing in the facility has made a health care
6 decision that includes an order not to resuscitate. For purposes of this section, "health
7 care decision" has the same meaning as in Title 18-C, section 5-802, subsection 6.

8 The department shall adopt rules necessary to implement this section. Rules adopted
9 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
10 subchapter 2-A.

11 **Sec. 2. 22 MRSA §2150-C**, as repealed and replaced by PL 2007, c. 267, §2, is
12 amended to read:

13 **§2150-C. Automated external defibrillators; immunity from civil liability;**
14 **requirements**

15 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
16 following terms have the following meanings.

17 A. "Automated external defibrillator" or "AED" means a medical device that
18 combines a heart monitor and a defibrillator approved by the United States Food and
19 Drug Administration that:

20 (1) Is capable of recognizing the presence or absence of ventricular fibrillation or
21 rapid ventricular tachycardia;

22 (2) Is capable of determining, without intervention by an operator, whether
23 defibrillation should be performed on an individual; and

24 (3) Upon determination that defibrillation should be performed, automatically
25 charges and requests delivery of an electrical impulse to an individual's heart.

26 A-1. "Activities of daily living" has the same meaning as in section 7852, subsection
27 1.

28 C. "Extended care facility" means a nursing facility licensed under chapter 405 or an
29 assisted living facility or residential care facility licensed under chapter 1663 or 1664
30 that provides services to an individual who requires assistance with activities of daily
31 living.

32 D. "Lifesaving procedures" means the use of an automated external defibrillator or
33 the performance of cardiopulmonary resuscitation for a suspected sudden cardiac
34 arrest emergency.

35 **6. Immunity.** The following persons and entities are immune from civil liability for
36 damages relating to the use, possession or purchase of an AED and arising out of acts or

1 omissions relating to preparing for and responding to suspected sudden cardiac arrest
2 emergencies absent gross negligence or willful or wanton misconduct:

- 3 A. Any person or entity that acquires an AED;
- 4 B. Any person or entity that owns, manages or is otherwise responsible for the
5 premises on which an AED is located;
- 6 C. Any person who retrieves an AED in response to a perceived sudden cardiac
7 arrest emergency;
- 8 D. Any person who uses, attempts to use or fails to use an AED in response to a
9 perceived sudden cardiac arrest emergency;
- 10 E. Any physician or other authorized person who issues a prescription for the
11 purchase of an AED;
- 12 F. Any person or entity that is involved with the design, management or operation of
13 an AED program; and
- 14 G. Any person or entity that provides instruction in the use of an AED.

15 **7. Requirements for extended care facility.** An extended care facility shall comply
16 with the following requirements.

17 A. An extended care facility shall have on its premises an AED and any equipment
18 necessary to perform cardiopulmonary resuscitation.

19 B. An extended care facility shall provide to every employee training on using an
20 AED and performing cardiopulmonary resuscitation.

21 C. An employee of an extended care facility shall perform lifesaving procedures on
22 any individual residing in the extended care facility who the employee reasonably
23 suspects is suffering a sudden cardiac arrest emergency unless that individual has
24 made a health care decision that includes an order not to resuscitate. For purposes of
25 this section, "health care decision" has the same meaning as in Title 18-C, section
26 5-802, subsection 6.

27 D. Except as provided in paragraph C, an extended care facility may not prohibit an
28 employee from performing lifesaving procedures on any individual residing in the
29 extended care facility who the employee reasonably suspects is suffering a sudden
30 cardiac arrest emergency when the employee has received the training required in
31 paragraph B.

32 **8. Rules.** The department may adopt rules necessary to implement subsection 7.
33 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
34 chapter 375, subchapter 2-A.

35 **Sec. 3. 22 MRSA §7808** is enacted to read:

36 **§7808. Orders not to resuscitate**

37 A facility licensed under this chapter that provides services to an individual who
38 requires assistance with activities of daily living shall establish a process for quickly

1 determining in the event of a medical emergency whether an individual residing in the
2 facility has made a health care decision that includes an order not to resuscitate. For
3 purposes of this section, "activities of daily living" has the same meaning as in section
4 7852, subsection 1 and "health care decision" has the same meaning as in Title 18-C,
5 section 5-802, subsection 6.

6 The department shall adopt rules necessary to implement this section. Rules adopted
7 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
8 subchapter 2-A.

9 **Sec. 4. 22 MRSA §7864** is enacted to read:

10 **§7864. Orders not to resuscitate**

11 A facility licensed under this chapter that provides services to an individual who
12 requires assistance with activities of daily living shall establish a process for quickly
13 determining in the event of a medical emergency whether an individual residing in the
14 facility has made a health care decision that includes an order not to resuscitate. For
15 purposes of this section, "health care decision" has the same meaning as in Title 18-C,
16 section 5-802, subsection 6.

17 The department shall adopt rules necessary to implement this section. Rules adopted
18 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
19 subchapter 2-A.

20 **SUMMARY**

21 This bill requires nursing facilities and assisted living and residential care facilities
22 that provide services to a person who requires assistance with activities of daily living to
23 perform cardiopulmonary resuscitation or use an automated external defibrillator in the
24 event of a suspected sudden cardiac arrest unless the person has made a health care
25 decision that includes an order not to resuscitate. It requires those facilities to store the
26 necessary equipment to perform cardiopulmonary resuscitation or use an automated
27 external defibrillator. It requires those facilities to provide training to their employees on
28 how to perform cardiopulmonary resuscitation and use an automated external
29 defibrillator. The bill also directs those facilities to establish a process for quickly
30 determining in the event of a medical emergency whether an individual residing in the
31 facility has made a health care decision that includes an order not to resuscitate.